



US Army Corps  
of Engineers  
St Paul District

## Public Notice

APPLICANT: Robert Daeda

ISSUED: 24 February 2004  
EXPIRES: 25 March 2004

REFER TO: 03-07558-KDZ

SECTION: 404 - Clean Water Act

1. **APPLICATION FOR PERMIT TO** discharge fill material into 2.46 acres of wetlands adjacent to a tributary of the Midway River for construction of a housing development in Hermantown, Minnesota. This project was previously posted during our Letter of Permission internet public notification process, however, modifications to the project have resulted in total wetland impacts that exceed the 2 acre threshold set for (GP/LOP-98-MN) authority.

2. **SPECIFIC INFORMATION.**

**APPLICANT'S ADDRESS:** 915 E. 6th Street  
Duluth, MN 55805  
(218) 724-1688

**PROJECT LOCATION:** The project site is located in the SE 1/4 of Section 22, T. 50N., R. 15W., St. Louis County, Minnesota. The approximate UTM coordinates are Zone 15, North 5183952, East 559290.

**DESCRIPTION OF PROJECT:** The applicant proposes to discharge fill material into 2.46 acres of wetlands for the construction of the "Foxborrow First Addition, Phase 2" housing development. The project includes the extension of Foxborrow Drive, construction of a storm water retention pond and two drainage ways, and construction of driveways for two separate upland building locations. The extension of Foxborrow Drive would facilitate access to an upland hill located on the western half of the property, with this area being used for five residential lots. Two upland knolls would be utilized for single residential lots with access via two proposed driveways. The remainder of the property, which is comprised mostly of forested wetlands, would be avoided and designated as four outlots.

**QUANTITY, TYPE, AND AREA OF FILL:** The applicant proposes to discharge fill material into approximately 107,246 square feet (2.46 acres) of forested (type 7) wetlands. The wetland impacts are: 40,920 square feet (0.94 acre) from the extension of Foxborrow Drive, 3,400 square feet (0.08 acre) from the construction of a driveway to an upland building site on Lot 1 of Block 1, and 200 square feet for construction of a driveway to an upland building site on Lot 3 of Block 3. An additional 62,726 square feet (1.44 acres) of wetland impacts would occur from the construction of a storm water detention pond and grading of two drainage ways.

**SUBJECT: Notice of Application for Permit**

**WETLAND MITIGATION:** As compensation for the loss of 2.46 acres of wetlands, the applicant is proposing to create 1.28 acres of inland shallow fresh marsh (type 3) wetlands on-site. The remaining wetland impacts would be compensated by purchasing 1.80 acres of new wetland credit from a mitigation bank located in the St. Louis River watershed. If wetland mitigation bank credits are unavailable within the St. Louis River watershed, credits would be debited from a bank located in a forested northern Minnesota County. The wetland impacts would be replaced at a 1.25:1 ratio, for a total 3.08 acres of mitigation.

**VEGETATION IN AFFECTED AREA:** The 11.63 acre parcel of property is mostly comprised of forested wetlands (type 7). The forested wetlands are dominated by Black Ash, Quaking Aspen, Silver Maple, White Birch, and other typically associated species.

**SOURCE OF FILL MATERIAL:** The fill material used for the project would come from an on-site source.

**SURROUNDING LAND USE:** The surrounding land use is mainly scattered residential, agricultural, and interspersed woodlands.

**THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE:** The project would not involve the use of any potentially toxic material

### **3. REPLIES/COMMENTS.**

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, Room 2, 1554 Highway 2, Two Harbors, MN 55616.

IF YOU HAVE QUESTIONS ABOUT THE PROJECT, please contact Kyle D. Zibung at the Two Harbors office of the Corps, telephone number (218) 834-6630.

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**4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.**

None were identified by the applicant or are known to exist in the permit area. However, St. Louis County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Bald eagle (T)	Breeding
Piping plover (E)	Sandy beaches, islands
Canada lynx (T)	Northern forested areas
Gray wolf (T)	Northern forested areas

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

**5. JURISDICTION.**

This project comes under the regulatory jurisdiction of the Corps of Engineers because the Midway River is a tributary to the St. Louis River, a navigable water of the United States.

**REGULATORY AUTHORITY:** This application will be reviewed according to the provisions of Section 404 of the Clean Water Act. Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 Code of Federal Regulations 230).

**THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED:** Wetland Conservation Act (WCA) authorization from the City of Hermantown and Section 401 Water Quality Certification and NPDES permit from the Minnesota Pollution Control Agency (MPCA).

**6. STATE SECTION 401 WATER QUALITY CERTIFICATION.**

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state

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Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

The MPCA has eliminated the staffing resources for the Section 401 certification program due to budgetary limitations. Due to staff reductions, MPCA is intending to waive many section 401 certification applications with limited exceptions but the MPCA reserves the right and authority to proceed differently if extreme or unique circumstances merit a different approach. In many cases, the waiver of 401 certification means that the MPCA has not reviewed federally permitted projects in detail for conformance with state water quality standards nor has the MPCA made a determination of the proposal's compliance with state water quality standards. This waiver action, however, will not exempt the applicant from the responsibility of complying with all applicable water quality standards and requirements as contained in Minn. R. ch. 7050 and all other applicable state rules regarding water quality. The applicant will need to make a self-determination of water quality compliance of their proposal. In the event of water quality violations caused by the applicant's project, enforcement action may be taken by the MPCA.

Any comments relative to MPCA's intention to waive Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency  
Regional Environmental Management Division  
Attention 401 Certification  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194

## 7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area.

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**8. PUBLIC HEARING REQUESTS.**

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

**9. PUBLIC INTEREST REVIEW.**

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

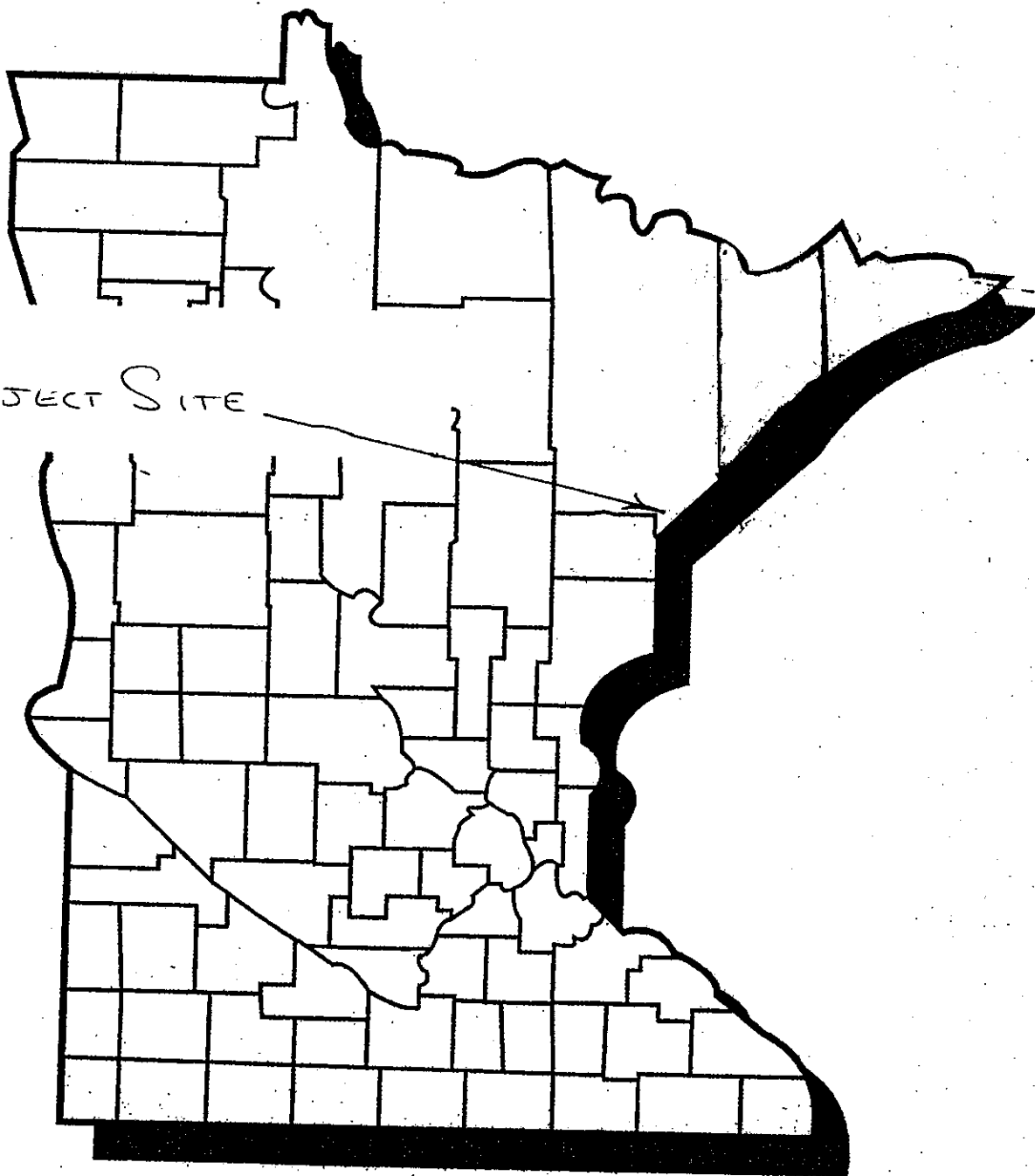


Julett Denton  
Chief, Out-State Minnesota Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.

PROJECT SITE



03-07558-KD2

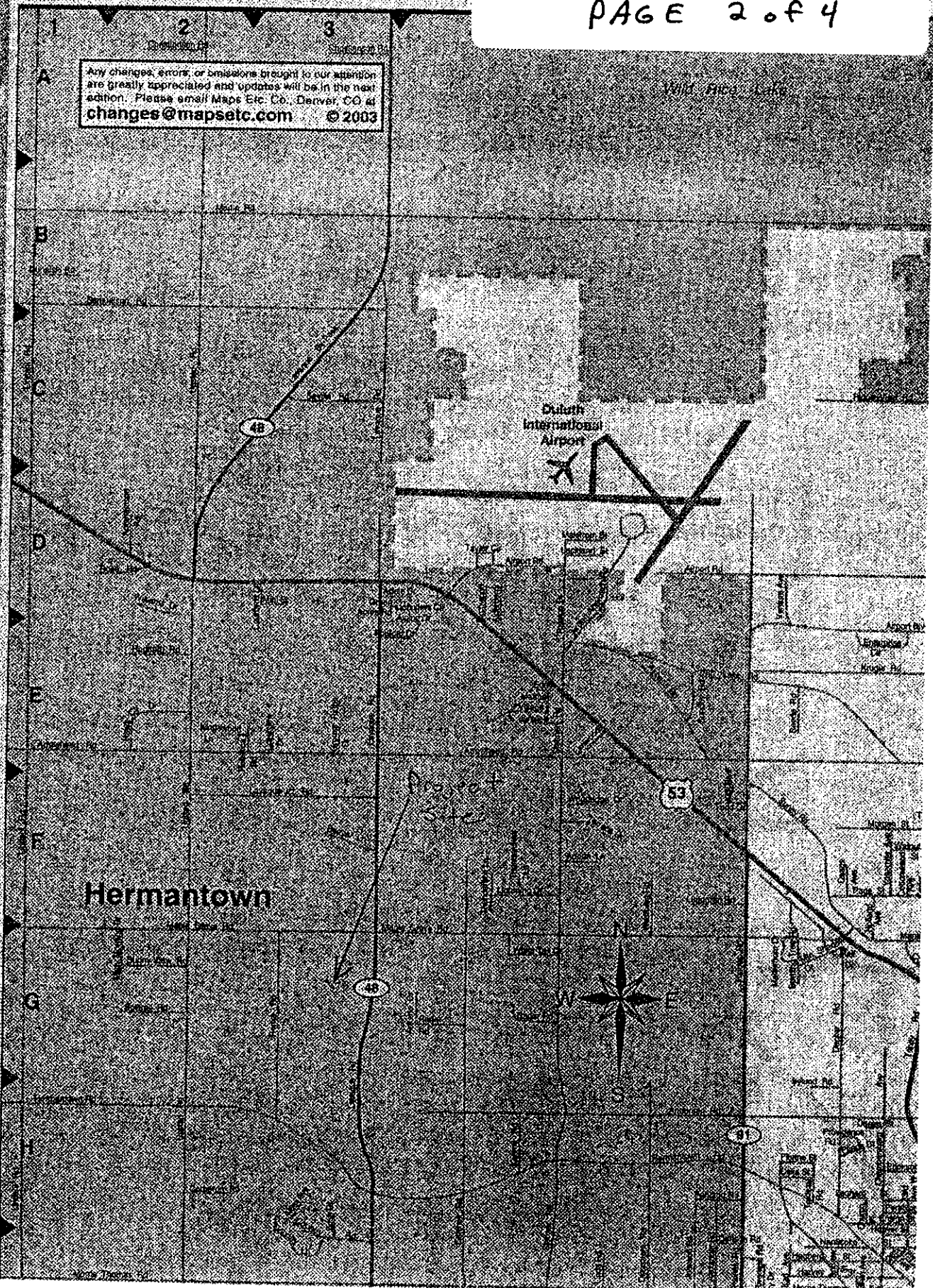
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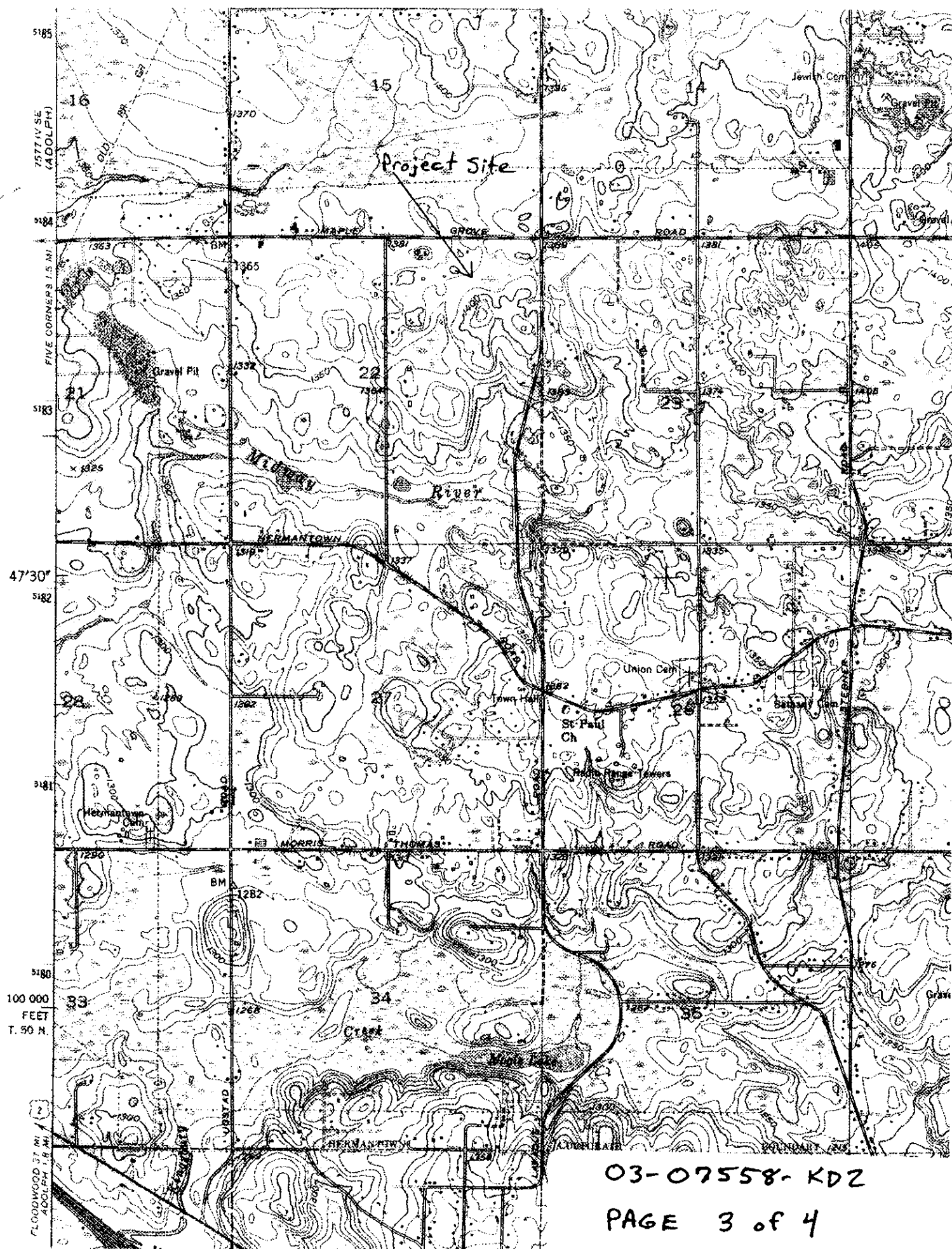
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TWIN POLICE AREA

Any changes, errors, or omissions brought to our attention are greatly appreciated and updates will be in the next edition. Please email Maps Etc. Co., Denver, CO at [changes@mapsetc.com](mailto:changes@mapsetc.com) © 2003





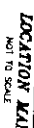
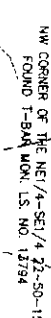


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DAEDA



2009-10-19

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OUTLETS ARE TO BE DEDICATED TO THE PUBLIC

WCCOM PROJECT #001011, DATED JULY 24, 1989, PO. BOX 1103, SUDBURY, W. 715-380-0000 (WCCOM).

DEPOTES APPLICABLE LOCATION OF TEST PITS, URGES AND WEIGHS, SHOW ON THE DELINEATION REPORT, PROPOSED FUNDING APPROPRIATE, LAVALLE ROAD, HEDERATION, AND DEPOSIT NUMBER 1-10-11-11.

--- usda quad. topography: 10 foot contour intervals.

FOR THE PURPOSE OF THIS BARNEY THE EAST-WEST QUARTER LINE OF SECTION 22 HAS AN ASSIGNED BEARING OF SOUTH 89°44'30" WEST, PER ST LOUIS COUNTY PLAT MAP 83

4 OUTLOTS

Front yard	Back yard	Side yard
50 feet	25 feet	5 feet

Zone#	Estimating Zone#	R-S (RESIDENTIAL)	Handmade LOT MODS/100'
Zone#	Estimating Zone#	R-S (RESIDENTIAL)	Handmade LOT MODS/100'

**Workbook:** CITY OF HENRIKSTOWN  
**Proposed Utilities:**

NOT TO SCALE

SE1/4, SECTION 22.

1852.28

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